

§716.3

725 of this chapter. All spoil not retained on the bench shall be placed in accordance with the Act and these regulations.

(5) The regulatory authority shall review every variance granted pursuant to this subsection not more than three years from the date of issuance of the permit to ensure that the proposed alternative postmining use is proceeding in accordance with the terms of the approved plan, unless the permittee affirmatively so demonstrates.

[42 FR 62691, Dec. 13, 1977, as amended at 45 FR 83168, Dec. 17, 1980]

§716.3 Mountaintop removal.

(a) Surface coal mining and reclamation operations that remove entire coal seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining are exempt from the requirements of §715.14 of this chapter for achieving approximate original contour, if the following requirements are met:

(1) An industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed for the affected land.

(2) The alternative land use criteria in §715.13(d) of this chapter are met and the proposal is approved by the regulatory authority.

(3) All other applicable requirements of part 715 of this chapter can be met.

(b) Surface coal mining and reclamation operations conducted under this section shall comply with the following standards:

(1) An outcrop barrier of sufficient width consisting of the toe of the lowest coal seam, and its associated overburden shall be retained to prevent slides and erosion.

(2) The final graded top plateau slopes on the mined area shall be less than 1v:5h so as to create a level plateau or gently rolling configuration and the outcrops of the plateau shall not exceed 1v:2h, except where engineering data substantiates and the regulatory authority finds that a minimum static safety factor of 1.5 will be attained.

(3) The resulting level or gently rolling contour shall be graded to drain in-

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ward from the outslope except at specific points where it drains over the outslope in protected stable channels.

(4) Damage to natural watercourses below the area to be mined shall be prevented.

(5) Spoil shall be placed on the mountaintop bench as is necessary to achieve the postmining land use approved under §715.13 of this chapter. All excess spoil material not retained on the mountaintop shall be placed in accordance with the standards of §715.15 of this chapter.

(c)(1) All permits giving approval for mountaintop removal shall be reviewed not more than 3 years from the date of issuance of the permit, unless the permittee affirmatively demonstrates and the regulatory authority finds that all operations are proceeding in accordance with the terms of the permit and applicable requirements of the Act and the regulations of this part. The terms of the permit shall be in accordance with the requirements of the Act and the regulations of this part.

(2) The terms of a permit for mountaintop removal may be modified by the regulatory authority if it determines that more stringent measures are necessary to prevent or control slides and erosion, prevent damage to natural water courses, avoid water pollution, or to assure successful revegetation.

§716.4 Special bituminous coal mines.

(a) *Definition.* Special bituminous coal surface mines as used in this section means those bituminous coal surface mines that are located in the State of Wyoming and that are being mined or will be mined according to the following criteria:

(1) Excavation of the mine pit takes place on a relatively limited site for an extended period of time. For the purposes of this section, mine pit means an open-pit mine in which the surface opening is at least the full size of the excavation and has a contiguous border. The pit generally is quite deep and is formed by the removal of relatively large amounts of overburden to obtain lesser amounts of coal. The term as used in this section applies only to mining operations that extract coal